

1944

Present: Hearne J.

ABDEEN, Appellant, and JOHARA, Respondent.

549—*Kathi Court, Slave Island, No. 2,239.**Muslim divorce—Petition by wife for Fasah divorce—Admission by husband—No legal proof required.*

Where, on an application by a wife in the Kathi Court for a "Fasah" divorce the respondent admitted all the facts alleged by the wife, which entitled her to a divorce,—

Held, that such admission may be regarded as a substitute for the requirement of legal proof by two witnesses.

THIS was an appeal from an order of the Kathi Court of Slave Island taken with the leave of the Supreme Court.

S. A. Marikar for appellant.

Syed Ahamed for respondent.

Cur. adv. vult.

July 17, 1944. HEARNE J.—

The petitioner-respondent made an application for "Fasah" divorce in the Kathi Court of Slave Island and the Kathi granted a divorce as prayed. The respondent-appellant appealed to the Board of Kathis and his appeal was rejected on a preliminary objection. Leave to appeal to this Court against the order of the Board was granted but it is now conceded that the appeal is without merit. In these circumstances no

order can be made in respect of the appeal other than that it must stand dismissed with costs. Counsel for the appellant has, however, argued that it is "imperative (? incumbent) upon a Kathi under Rule 8, Part 1 of the 3rd Schedule to the Ordinance to call at least 2 witnesses on behalf of a wife before 'Fasah' could be granted" and that, as this was not done, this Court in the exercise of its revisional jurisdiction will quash the order made by the Kathi of Slave Island. Turning to the record of the proceedings in the Kathi Court I note that the respondent-appellant was present and made a full admission of all the facts alleged by his wife which entitled her to a divorce. It appears to me that, even where the law requires that legal proof should be by a certain number of witnesses, an unequivocal admission may be regarded as a substitute for such proof. Whether this is so or not I am not disposed to interfere in revision in a matter in which the successful party was the wronged party, and the unsuccessful party was the one who admittedly perpetrated the wrong. Collusion is not alleged. I make no order in revision.

Appeal dismissed.

